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Yuichi Oku

OKUY3002/GAL

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EXAMINER

JANSSEN, SHANNON L

ART UNIT

PAPER NUMBER

1636

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Continued

The amendment filed July 14, 2011 under 37 CFR 1.116 in reply to the final rejection has been considered but is not deemed to place the application in condition for allowance because of the following: (Applicants arguments are presented in Italics).

Applicants assert that the references do not teach or suggest the subject matter of the present claims and do not teach analytical devices for the detection of antigens or the sequential order of immobilization as recited in the present claims (Response, pp 7).

Firstly, it is noted that the instant claims do not recite carrying out the various steps sequentially, nor do they recite detecting an antigen. The instant claims are directed to a method of preparing a device, not a method of using a device. Secondly, the rejection is over the combination of references, which, taken together, do teach the steps in order. Specifically, Elkins et al. and Fixe et al. teach immobilizing nucleic acids on a support (see the Office Action mailed 4/18/11) and Chazan et al. and Yamagata et al. teach forming a microfluidic device comprising thermally bonding a first substrate to a second substrate (see the Office Action mailed 4/18/11), wherein one of skill in the art would recognize that the nucleic acids would need to be deposited/spotting on the support prior to the enclosing of the support (e.g.: depositing/spotting nucleic acids at a particular location would not be possible once it was enclosed; see the Office Action mailed 4/18/11).

In other words, to perform *any* reaction with an oligonucleotide the reaction container or surface therefor must be initially accessible (i.e. not sealed), thus in response to applicant's argument that the references do not teach the required order of steps (e.g.: immobilization of nucleic acids prior to sealing), the fact that applicant has recognized another advantage which

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would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

Withdrawn Objection(s)/Rejection(s)

The objection to claim 52 is withdrawn in view of the claim amendments the claim amendments. The rejection of claims 52 and 58-62 under 35 U.S.C. 112, second paragraph is withdrawn in view of the claim amendments.

Future Communications

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHANNON JANSSEN whose telephone number is (571)270-1303. The examiner can normally be reached on Monday-Friday 10:00AM-7:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ardin Marschel can be reached on (571) 272-0718. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/CHRISTOPHER M GROSS/
Primary Examiner, Art Unit 1636